APPENDIX A.

Pertinent Extracts From the Code of Civil Procedure of Puerto Rico Edition of 1933.

TITLE XII—OF APPEALS IN CIVIL ACTIONS.

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Chapter II—*Appeals to Supreme Court from District Court.*

Section 295. (939 Cal.) An appeal may be taken to the Supreme Court from a District Court:

1. (*As amended by Act of March 11, 1908, page 84.*)—From a final judgment in an action or special proceeding commenced in the court in which the same is rendered, within one month after the entry of judgment.

2. (*As amended by Act of March 9, 1905, page 136.*)—From a judgment rendered on an appeal from an inferior court, within fifteen days after the entry of such judgment, should the value of the property claimed or amount of the judgment not including products and interest thereon exceed three hundred dollars ($300).

3. From an order granting or refusing a new trial; from an order granting or dissolving an injunction; from an order refusing to grant or dissolve an injunction; from an order dissolving or refusing to dissolve an attachment; from an order granting or refusing to grant a change of the place of trial; from any special order made after final judgment; and from an interlocutory judgment in actions for partition of real property, within ten days after the order or interlocutory judgment is made and entered on the minutes of the court or filed with the secretary.

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TITLE XV—*Introduction of Evidence in Civil Proceedings.*

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Chapter V—*Indirect Evidence, Inferences and Presumptions.*

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Section 463.—(101 L.) (1962 Cal.) The following presumptions, and no others, are deemed conclusive:

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3. Whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he can not in any litigation arising out of such declaration, act, or omission, be permitted to falsify it.

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TITLE XVI—SPECIAL LEGAL PROCEEDINGS.

An Act Relating to Special Legal Proceedings, approved March 9, 1905 (Laws of P. R. 1905, p. 137, *et seq.*), as amended by the Act of March 8, 1906 (Laws of P. R. 1906, p. 165, *et seq.*), and embodied in the Code of Civil Procedure of Puerto Rico, Edition of 1933, as Sections 534 to 619.

[SUB]TITLE I—TESTAMENTARY AND INTESTATE PROCEEDINGS.

Chapter I—*Recording of Public Instruments, Oral Wills and Codicils.*

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Chapter V—*Judicial Administration of Decedent's Estate.*

Section 556—(23 L.) (1038 S. C. P.) The executor of the last will of a decedent, or in case that none has been appointed, or if the decedent left no validly executed will, the surviving spouse of the decendent or any heirs at law or any person claiming as testamentary heir or legatee, or any unsecured creditor with written title, having a claim against the decedent, may, on a proper petition duly showing therein the necessary facts, apply for a judicial administration of the property of said decedent. Such petition shall be filed

in the district court having jurisdiction over the last residence of the decedent or of the place where the greater part of his property is situated and shall set forth under oath:

(1) The death of the decedent.

(2) The particulars relating to his last will, including the date of the execution thereof and the office in which it was recorded; and in case such decedent shall have died intestate, it shall set forth that according to the best information and belief of the petitioner said decedent left no valid will, with the sources and grounds for such information and belief.

(3) The interest and cause of action of the petitioner.

(4) The names and respective residences of all other persons entitled to inherit in the estate of the decedent.

(5) That decedent left property subject to distribution, and the amount and nature of such property.

Section 558.—(25 L.) (961 S. C. P.) (*As amended by Act of March 8, 1906, page 165.*)—When all or one or more than one of the heirs are absent or have no legal representatives in the jurisdiction of the last place of residence of the decedent, or where the property is located, or when an heir or legatee is a minor or incapacitated and is not represented by his father or mother or by a tutor who has given the bond required by law, the judicial administration of the property of the testator shall be necessary.

Section 559.—(26 L.) (*As amended by Act of March 8, 1906, page 165.*)—It shall be the duty of any executor, in the case last mentioned, to petition the district court of the domicile of the testator, or of the place where his property is situated, for a judicial administration, which said petition shall be accompanied with a certified copy of the will in which the executor is appointed. In default of a duly appointed executor, any one of the persons named in the first section of this chapter may file such petition. Upon the filing of the petition the judge shall proceed to summon the executor, if there be any, the surviving spouse and the other heirs and legatees, as well as all creditors of the estate, di-

recting them to appear at a day, hour, and place designated, not less than eight nor more than fifteen days after the issuance of said summons, but should the said district court be in vacation, the petition shall not be filed until the next session.

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Section 563.—(30 L.) Where there is no testamentary trustee, the judge may, pending the appointment of a permanent administrator, appoint a temporary administrator under sufficient bond to take charge of the properties and chattels of the decedent.

In all cases where any of the persons mentioned in section 23 of this act, who having the right to ask the judicial authorization shall bring to the attention of the judge that there exists personal or movable property, capable of being easily removed or concealed, the judge shall direct the marshal to take immediate possession of same, making an inventory thereof, and to deposit ad interim the said property with any responsible party, who may be one of the heirs, until a sufficiently bonded trustee can be appointed by the judge.

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Section 567.—(34 L.) The administrator shall immediately take possession of the money and public effects of the decedent and shall place them with the depository designated by the court, taking a receipt therefor. He shall also take charge of the jewelry, furniture, personal effects and gathered crops which he shall keep in a secure place.

Chapter VI—*The Inventory.*

Section 568.—(35 L.) (1064-65 S. C. P.) Within ten days after his appointment the administrator or executor shall proceed to make an inventory of the real and personal property belonging to the estate of the decedent and for that purpose shall give ten days' notice to the heirs and legatees and their legal representatives if they have made their

appearance in the proceeding, the surviving spouse or his or her legal representative, the creditors who are parties thereto, and the special guardian or legal representatives of the minor or incapacitated persons.

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Chapter VII—*Administration of Decedent's Estate.*

Section 571.—(38 L.) (1016-17 S. C. P.) The administrator shall hold the properties of the decedent and shall endeavor to make them yield the proper rents, products and profits. He may make ordinary repairs to buildings and procure the necessary labor and fertilizers as may be required for the cultivation of rural properties, without requiring authorization therefor.

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Section 579.—(46 L.) (1030-32 S. C. P.) The administrator shall not sell the inventoried property of the estate, except such as is likely to deteriorate, such as may be difficult and expensive to maintain, crops which can be sold advantageously, and all other properties the sale of which may be necessary for the payment of the debts of the decedent or to meet the expenses of the administration. The court, on the application of the administrator, and after notice to and hearing of the acknowledged heirs, may order the sale of such property at public auction after an appraisement thereof shall have been made by expert appraisers. Public sales shall be made under the same formalties and terms as hereinbefore provided for the making of leases.

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Chapter IX—*Compensation of Administrators and Executors.*

Section 586.—(53 L.) (1033 S. C. P.) Each administrator and executor, unless the will under which he is appointed provides to the contrary, shall be entitled to be paid from the estate, as compensation for his services, five per centum on sums received in the course of administration, amount-

ing to one thousand dollars or under; two and one-half per centum on sums up to ten thousand dollars, and one per centum on sums above ten thousand dollars. The judge shall also allow an administrator or executor the necessary and proper expenses incurred in administration, including cost of advertising and publishing notices required by law, maintenance and care of the property, legal counsels and traveling expenses.

Chapter X—*Accounting of Administrators and Executors.*

Section 587.—(54 L.) (1010 S. C. P.) Administrators and executors shall file in the district court quarterly statements of the amount received and disbursed by them, verified by their oath accompanied by a voucher showing that the cash balance remaining has been deposited in the banking establishment designated as depository by the court. These statements shall be open for inspection in the clerk's office to any party interested in the estate.

Section 588.—(55 L.) (1012-14 S. C. P.) (As amended by Act of March 8, 1906, page 165.)—Whenever the administrator or executor shall have completed his liquidation of the estate, or resigns, or is removed, or for any reason ceases to be such administrator or executor, he shall file with the court a final account sworn to by him and accompanied by proper receipts and vouchers, which shall likewise be open for inspection. On filing such final account all parties interested in the estate shall be cited to the end that they may attend the final settlement of his account and the return of his bond or cancellation thereof.

Section 589.—(56 L.) (1014 S. C. P.) Eight days after the service of citation to be issued upon the order of the judge of said court, if no objections be filed to such account, if in the opinion of the court the account is just and correct, an order approving the same shall be entered, discharging the administrator from responsibility, and cancelling the bond or other security which he has given. Should objections be filed to the account, the matter shall be brought on

for a hearing and proof taken and the account approved or disapproved as the law and facts may justify.

Section 590.—(57 L.) (1015 S. C. P.) The district court shall make a final order, either approving the account as rendered, or modifying and amending it, and charging the executor or administrator as law may require, and an appeal may be taken from such final order.

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Section 592.—(59 L.) The final decree on any accounting shall contain the provision that law and justice require for the distribution of the surplus, in money or property, remaining after the payment of the debts of the decedent and the expenses for the administration among those entitled thereto by law.

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Chapter XII—*Acceptance of the Office of Executor or Administrator.*

Section 597.—(64 L.) Every executor who accepts his appointment under a will shall be obliged to file with the officer in whose office the will is recorded a written acceptance thereof, with his oath of office, binding himself to discharge his duties as executor to the best of his ability, and in default thereof he shall be unable to take possession of the property of the decedent. The district court of the last domicile of the decedent or of the place where his property is situated shall, on the filing of a certificate of the notary or other proper officer that such acceptance and oath of office have been filed, issue letters testamentary to the executor, which shall be evidence of his authority. When any administrator has filed his bond and an oath of office, the judge or court that shall have appointed him, shall issue to him letters of administration, over its seal, as evidence of his authority.

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[SUB] TITLE II.

First and Only Chapter—Division and Partition of Inheritance.

Section 600.—(67 L.) (As amended by Act of March 8, 1906, page 165.)—Whenever any executor or administrator is in possession of all of the estate, and shall have paid or shall have in hand a sufficient amount for the payment of the debts and expenses of administration, he must apply to the district court for the appointment of a commissioner ("contador partidor") to make such partition and division, in case that decedent did not, by his will, appoint such commissioner.

Section 601.—(68 L.) (As amended by Act of March 8, 1906, page 165.)—All such information as may be necessary for the appraisal, liquidation, division and distribution of the hereditary estate shall be transmitted to such commissioner, whether appointed by the decedent in his will, or by the district court.

Section 602.—(69 L.) (As amended by Act of March 8, 1906, page 165.)—The acceptance by the commissioner of the appointment shall entitle each and every interested party to compel him to perform his functions within a reasonable time, according to the importance and the difficulty of the division; and should he fail or neglect to do so, any party may apply to the judge of the district court for an order directing him to do so.

Section 603.—(70 L.) The commissioner shall fix a day, hour, and place for the division and shall for such purpose notify the parties thereto. At the time and place fixed, and in the presence of the parties, he shall have the power to examine witnesses and experts. He shall submit a statement of the property subject to division, with the value of each item, and in his report, which must be subscribed by him, he shall point out the way and manner in which the property may be justly and equitably divided between those entitled to share in the inheritance or succession, and if in

his opinion, such division can not be made without sale, he shall include that fact in his report and recommend a judicial sale for the purpose of distribution of the proceeds. He shall file his report with the clerk of the court, and any of the parties may file an application for the approval of such report, on eight days' notice to other parties. If, during eight days after notice of the filing of the report, no objections to the report are filed, the judge of the district court shall approve it and make an order for partition, division, or distribution in accordance therewith. If objections are filed to the report, the matter may be brought on for hearing before the court by any party on five days' notice to the others, and the judge, after hearing the parties by their counsel, shall sustain or overrule the objections, confirm the report or set it aside, or send it back for amendment. If the report shall be attacked for bribery, conspiracy, fraud or misconduct in the proceeding, and there appear substantial grounds for the accusation, the judge shall remove the commissioner and direct a copy of the proceedings and of the evidence to be placed in the hands of the fiscal of the district court for the institution of criminal proceedings and set aside the report and appoint another commissioner to make a new partition.

Section 604.—(71 L.) (As amended by Act of March 8, 1906, page 165.)—When the partition has been definitely approved, each of the interested parties shall be entitled to a certified copy of the final order of partition, which shall contain all of the requisites necessary for inscription in the registry of property; such documents declaring titles that may be recorded. When the final order is made, the heirs shall be placed in possession of the shares which have been respectively allotted to them; *Provided*, That where the heirs, being all of legal age, shall have informed the court that they are agreed as to the partition of the hereditary estate, the preceding provisions of this title shall not be applicable, and such heirs shall immediately be placed in possession of the hereditary estate by the executor or ad-

ministrator having the possession of the estate. Where there are one or more minor heirs, or heirs otherwise incapacitated, and the legal representatives of the same and of the other heirs are agreed in respect to the partition of the hereditary estate, the provisions of sections sixty-seven to seventy, both inclusive, of this act, shall have no application: *Provided*, That all interested parties shall file with the court a statement of such partition of the hereditary estate as may have been made. The district court shall approve such partition, making therein such legal modifications as the court may deem advisable; against such modifications as the court may make in said partition, any or all of the interested parties not in conformity therewith may take an appeal to the Supreme Court, and said appeal shall be prosecuted in accordance with the provisions of the Code of Civil Procedure.

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Section 619.—(85 L.) This Act shall take effect from and after its passage, and all previous laws in conflict herewith are hereby repealed; but the special proceedings established in the Civil Code, in the mortgage law and its regulations, and in any other law, in so far as not provided for by this Act, remain in force.

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AN ACT *Authorizing Writs of Certiorari*, approved March 10, 1904 (Laws of P. R. 1904, pp. 132-133).

Section 670.—(1 L.)—(*Definition.*)—A writ issued by a superior to an inferior court requiring the latter to send to former a certified copy of some proceeding therein pending, or the record and proceedings in some cause already terminated in cases where procedure is not according to the course of the law, and to complete the proceedings when the lower court refuses to do so upon erroneous grounds.

Section 671.—(2 L.)—The Supreme Court and the respective district courts of Porto Rico are hereby authorized and empowered to issue writs of certiorari.

Section 672.—(3 L.)—All writs of certiorari issued by any court, pursuant to the provisions of this Act, shall be under the seal of the court issuing same, and all such writs shall be applied for in the same manner and form as writs of habeas corpus.

Section 673.—(4 L.)—All laws or parts of laws, in conflict with this Act, are hereby repealed.

Section 674.—(5 L.)—This Act shall take effect from and after its passage.

APPENDIX B.

Extracts From the Civil Code of Puerto Rico, Edition of 1930.

BOOK THIRD.

DIFFERENT WAYS OF ACQUIRING OWNERSHIP.

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TITLE III—SUCCESSIONS.

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Chapter II—*Inheritances.*

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Article Eleventh—Executors.

Section 814.—A testator may appoint one or more executors.

Section 815.—No one without the capacity to enter into a contract can be an executor (*albacea*).

A minor cannot be an executor even with the authorization of his father or of his guardian.

Section 816.—Executors may be universal or special.

In any case executors may be appointed either severally, successively, or jointly.

Section 817.—Should the executors be appointed severally, only those acts performed by all of them together, or by one of them legally authorized by the others, shall be valid; and, in case of disagreement, when the act has been agreed to by the majority.

Section 818.—In cases of extreme urgency, one of the several executors may, under his personal liability, perform the acts which may be necessary, giving notice thereof immediately to the others.

Section 819.—If the testator should not clearly establish the appointment of joint executors nor determine the order in which they are to discharge their duties, it shall be understood that they have been appointed severally, and

they shall discharge their duties in the manner prescribed in the two foregoing sections.

Section 820.—Executorship is a voluntary office, and it shall be understood as accepted by the person appointed thereto should he not excuse himself within six days following that on which he has received notice of his appointment, or if he was already aware thereof, during the six days following that on which he had knowledge of the death of the testator.

Section 821.—An executor who accepts his office is bound to act; but he may renounce it, alleging a cause which is sufficient in the sound discretion of the district court.

Section 822.—The executor who does not accept the office, or renounces it without sufficient cause, shall lose what the testator may have left him, excepting always his right to the legal portion.

Section 823.—Executors of wills shall have all the powers expressly conferred upon them by the testator and which are not contrary to law.

Section 824.—Should the testator not have specially determined the powers of the executors they shall have the following:

1. To dispose and pay the suffrages, and funeral expenses of the testator in accordance with the provisions made by him in his will and, in their absence, according to the customs of the town.

2. To pay, with the knowledge and consent of the heir, the cash legacies.

3. To carefully see to the execution of the other provisions of the will and maintain, when just, its validity in and out of court.

4. To take the necessary precautions for the preservation and custody of the property, with the intervention of the heirs who may be present.

Section 825.—Should there not be in the estate cash enough for the payment of the funeral expenses and legacies, and the heirs should not contribute from their own funds thereto, the executors shall sell the personal prop-

erty; and should the proceeds therefrom not be sufficient, the real property shall be sold, with the intervention of the heirs.

If a minor, absentee, corporation, or public institution should have any interest in the estate, the sale of the property shall take place with the formalities prescribed by law for such cases.

Section 826.—The executor for whom the testator has not fixed a term must fulfill his office within a year, counted from his acceptance or from the conclusion of the litigation which may have been instituted with regard to the validity or nullity of the will or of any one of its provisions.

Section 827.—Should the testator desire to extend the legal term, he must expressly fix the time of the extension. Should he not have fixed it, it shall be understood that the term is extended for one year.

If after the expiration of this extension the will of the testator should not yet have been complied with, the district court may grant another term for the time which may be necessary, in view of the circumstances of the case.

Section 828.—The heirs and legatees may, by common consent, extend the term of the executorship for the time they may consider necessary, but if the agreement is only that of a majority the extension cannot exceed one year.

Section 829.—The executors shall submit an account of their administration to the heirs.

Should they have been appointed, not in order to deliver the property to determined heirs, but to invest or distribute the same in the manner ordered by the testator, in the cases allowed by law, they shall submit their accounts to the district court having jurisdiction.

Any provision of the testator in contravention of this section shall be void.

Section 830.—Executorship is a gratuitous office. The testator, nevertheless, may assign the executors the remuneration he may consider proper; all without prejudice to the right they may have to collect what may be proper

for their work in the division, or for any other professional services.

If the testator bequeaths or designates jointly any remuneration for the executors, the shares of those who do not accept the office shall accrue to those who may discharge it.

Section 831.—An executor can not delegate the office unless he has express authority therefor from the testator.

Section 832.—Executorship terminates by the death, incapacity, renunciation, or removal of the executor, and by the lapse of the term fixed by the testator, by law, and, in a proper case, by the persons interested.

Section 833.—In the cases of the foregoing section, and in case the executor has not accepted the office, the execution of the will of the testator shall devolve upon the heirs.

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Chapter VI—*Provisions Common to Inheritance by or Without Will.*

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Article Fifth—Benefit of inventory and right to deliberate.

Section 964.—Every heir may accept an inheritance under benefit of inventory, even though the testator should have forbidden it.

He may also request the making of the inventory before accepting or repudiating the inheritance, in order to deliberate on this point.

Section 965.—The acceptance of the inheritance, under the benefit of inventory, may be made before a notary or in a writing before the district court having jurisdiction in testamentary or intestate proceedings.

Section 966.—Should the heir referred to in the preceding section be abroad, he may make said declaration before a diplomatic or consular agent of the United States, who may be authorized to discharge the duties of a notary in the place of the execution.

Section 967.—The declaration referred to in the preceding sections shall not produce any effect whatsoever unless it be preceded or followed by a true and exact inventory of

all the property of the estate, made with the formalities and within the periods fixed in the following sections.

Section 968.—An heir who may have in his possession the property of the estate or a part thereof, and who may wish to make use of the benefit of inventory or of the right to deliberate, shall state this to the district court of competent jurisdiction in testamentary or intestate proceedings, within ten days following that on which he has become aware that he is such an heir, if he resides in the place where the deceased may have died. If he resides outside of it the period shall be thirty days.

In either case the heir must request, at the same time, the making of the inventory and the citation of the creditors and legatees in order that they may be present thereat if they wish to.

Section 969.—If the heir should not have in his possession the inheritance or a part of it, or has not taken any steps as such heir, the periods fixed in the preceding section shall be counted from the day following that on which the period fixed by the district court for accepting or repudiating the inheritance expires, in accordance with section 959, or from the day on which he may have accepted it or has acted as heir.

Section 970.—With the exception of the cases referred to in the two preceding sections, if no action should have been brought against the heir, he may accept, under the benefit of inventory, or with the right to deliberate while the action to claim the inheritance does not prescribe.

Section 971.—An inventory shall be begun within the thirty days following the citation of the creditors and legatees and shall be finished within sixty days more.

If, by reason of the property being situated at a long distance, or being very valuable, or for any other sufficient cause, said sixty days should appear insufficient, the district court may extend this period for such a time as it may deem necessary, which can not exceed one year.

Section 972.—If by the fault or negligence of the heir the inventory is not begun or finished within the periods, and

with the formalities prescribed in the preceding sections, it shall be understood that he accepts the inheritance purely and simply.

Section 973.—An heir, who should have reserved to himself the right to deliberate, must state to the court having jurisdiction, within thirty days, counted from the day following that on which the inventory has been concluded, whether he accepts or repudiates the inheritance.

If said thirty days have elapsed without said statement being made it shall be understood that he accepts it purely and simply.

Section 974.—In every case the district court may provide on the petition of the interested party during the formation of the inventory until the acceptance of the inheritance, for the administration and custody of the estate, for that purpose, an administrator with the necessary legal capacity who shall present a bond to be fixed by the court.

Section 975.—A person who judicially claims an inheritance, which another has had in his possession for more than one year and who should win the suit, shall not be obliged to make an inventory in order to enjoy said benefit, and he shall be liable for the charges on the estate only with the property which may have been delivered to him.

Section 976.—The inventory made by the heir, who afterwards repudiates the inheritance, shall benefit the substitutes and the intestate heirs, with regard to whom the thirty days for deliberation and in which to make the statement prescribed by section 973 shall be counted from the day following that on which they received notice of the repudiation.

Section 977.—The benefit of inventory produces the following affects in favor of the heir:

1. The heir shall not be bound to pay the debts and other charges on the inheritance except in so far as the property of the same may go.

2. He retains against the estate all the rights and actions which he may have had against the deceased.

3. His private property shall not be confused for any purpose whatsoever, to his injury, with the property belonging to the estate.

Section 978.—The heir shall lose the benefit of inventory:

1. If having knowledge thereof he fails to include in the inventory any of the property, rights, or actions of the inheritance.

2. If before concluding the liquidation of the debts and legacies he should alienate any property of the estate without judicial authorization, or that of all the persons interested, or if he should not apply the value of what is sold in the manner specified at the time the authorization was granted him.

Section 979.—During the making of the inventory and the period granted for deliberating the legatees can not demand the payment of their legacies.

Section 980.—Until all the known creditors and the legatees have been paid, it shall be understood that the estate is under administration.

The administrator, whether it be the heir himself or any other person, shall have, as such, the representation of the estate to exercise all the actions pertaining thereto, and answer all complaints instituted against the same.

Section 981.—The administrator can not pay the legacies until he had paid all the creditors.

Section 982.—Should there be a pending suit among the creditors with regard to the preference of their credits, they shall be paid in the order and according to the degree fixed by the final judgment of graduation.

Should no suit be pending among the creditors, those presenting themselves first shall be paid first; but should it appear that one of the known credits is preferred, the payment shall not be made without previous security being given in favor of the creditor having a better right.

Section 983.—If after the legacies are paid other creditors should appear, the latter shall have a right to make claims against the legatees only in case sufficient property should not remain to pay them.

Section 984.—If for the payment of credits and legacies the sale of the hereditary estate should be necessary, it shall take place in the manner established by the law of civil procedure with regard to intestate and testamentary proceedings, unless all the heirs, creditors, and legatees come to a different agreement.

Section 985.—If the hereditary estate should not be sufficient for the payment of the debts and legacies, the administrator shall render an account of his administration to the creditors and legatees who have not been paid in full, and he shall be liable for the damages caused the estate through his fault or negligence.

Section 986.—After the creditors and legatees are paid, the heirs shall have the full enjoyment of the remainder of the estate.

Should the estate have been administered by another person, he shall give an account of his administration to the heir, under the liability imposed by the preceding section.

Section 987.—The cost of the inventory and the other expenses arising from the administration of the inheritance, accepted under the benefit of inventory, and the defense of its rights, shall be charged to the said estate. The costs which the heir may have been personally adjudged to pay by reason of his deceit or bad faith are excepted.

The same shall be understood with regard to the costs arising from making use of the right to deliberate, if the heir repudiates the inheritance.

Section 988.—The private creditors of the heir can not interfere with the operations of the estate, accepted by the latter under benefit of inventory, until the creditors of the same and the legatees have been paid; but they may demand the retention of the attachment of the remainder which may be left the heir.